

## **CHAPTER 36-13**

### **ESTRAYS**

**36-13-01. Estrays - Possession.** A person may take possession of an estray when it is on property that the person owns or controls, provided the person does not know who owns the estray. As soon as practicable the person shall examine the estray to determine the presence and identity of any brand, the location of the brand, and any other marks or scars that may identify the estray. The person shall notify the sheriff of the county in which the estray was found or the chief brand inspector. Once notified, the sheriff or the chief brand inspector shall record the date and time of the notification and all information obtained from the person which may be helpful in determining ownership of the estray. The chief brand inspector shall direct a brand inspector to examine the estray for marks and brands.

**36-13-02. Estrays - Notification of chief brand inspector.** When notified of an estray possession, a sheriff shall contact the chief brand inspector and provide to the chief brand inspector any identifying or descriptive information regarding the estray.

**36-13-03. Sale of unclaimed estray - Records.** Repealed by S.L. 2003, ch. 287, § 24.

**36-13-03.1. Alternate disposition of estray.** A person that finds an estray on property that the person owns or controls may dispose of the estray by delivering it to a public livestock market licensed by this state, provided the person first makes a reasonable effort to determine ownership of the estray. The person shall inform the brand inspector that the animal being delivered is an estray. The estray and the proceeds of its sale must be disposed of as provided in chapter 36-22.

**36-13-04. Claiming estrays.** If before the sale of an estray the owner of the estray presents to the person possessing the estray an affidavit that includes the owner's name, place of residence, a declaration of ownership, and a description of the estray, the person possessing the estray shall release it to the owner on payment of all lawful charges.

**36-13-05. Lawful charges.**

1. A person that takes possession of an estray in accordance with this chapter may charge for any actual damage done to the person's crops or property by the estray.
2. A person that takes possession of an estray in accordance with this chapter may charge for any costs incurred after the person has notified either the sheriff or the chief brand inspector, provided the costs were incurred for the care and feeding of the estray or were incurred in complying with this chapter.
3. If the person who takes possession of the estray and the owner of the estray cannot agree as to the amount of charges that are payable, each shall choose one person and the two so chosen shall choose a third person. The three persons so chosen shall arbitrate and determine the amount of the charges. A determination under this subsection is final.

**36-13-06. Liability for failure to give proper notice.**

1. Any person that takes possession of an estray is liable to the owner of the estray for treble damages if the person fails to:
  - a. Examine the estray to determine the presence and identity of any brand, mark, or scar; and
  - b. Notify either the sheriff or the chief brand inspector as provided in this chapter.

2. A person liable for damages under subsection 1 may not make any claim or charge or seek damages in connection with the estray.

**36-13-07. Liability for death, theft, or escape of estray.** If the person that takes possession of an estray notifies either the sheriff or the chief brand inspector, as provided in this chapter, the person is not liable if, without fault on the part of the person, the estray dies, is stolen, or escapes and wanders away.

**36-13-08. Taking up estray - Compliance with chapter - Penalty.** Any person that takes possession of an estray and willfully fails to comply with this chapter is guilty of a class B misdemeanor.